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CANADIAN IMMIGRATION & REFUGEE LAW

Winter 2003

VOLUME I
(Weeks 1-6)

Prof. Audrey Macklin

Materials prepared by:
Prof. Audrey Macklin, U of T Fac. Law
Prof. Sharryn Aiken, Queen's Law School
With the assistance of Brandon Potter

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[Students unfamiliar with Administrative Law should read Chapter 4 ("Principles of Administrative Law") in Donald Galloway, *Immigration Law* (Toronto: Irwin Law, 1997), available online through Quicklaw]

Scott A. Hanna, 'Shared Powers: the Effects of the Shared Canadian Federal and Quebec Provincial Immigration Powers on Immigrants' 9 *Georgetown Imm. L. J.* (1995) 75 188
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*Kim Rubenstein, and Daniel Adler, 'International Citizenship:
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Rachel Li Wai Suen, "You Sure Know How To Pick 'Em:
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